

ESTTA Tracking number: **ESTTA676583**

Filing date: **06/05/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Wise Company, Inc.		
Entity	Corporation	Citizenship	Utah
Address	3676 W. California Ave. Salt Lake City, UT 84104 UNITED STATES		
Attorney information	Casey W. Jones Strong & Hanni 102 S. 200 E. Suite 800 Salt Lake City, UT 84111 UNITED STATES cjones@strongandhanni.com, cbecerra@strongandhanni.com Phone:801-532-7080		

Registration Subject to Cancellation

Registration No	3763625	Registration date	03/23/2010
Registrant	The Simple Kitchen, LLC Suite 2F New York, NY 10011 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2008/09/15 First Use In Commerce: 2008/09/15 All goods and services in the class are cancelled, namely: Retail grocery and retail store services featuring food
Class 043. First Use: 2008/09/15 First Use In Commerce: 2008/09/15 All goods and services in the class are cancelled, namely: Delicatessens; cafes; restaurants; catering

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition for Cancellation.pdf(13153 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Casey W. Jones/
Name	Casey W. Jones
Date	06/05/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No.: 3763625
For the Trademark: The Simple Kitchen (with stylized design elements)

Wise Company, Inc., a Utah corporation,

Petitioner,

v.

Cancellation No. _____

The Simple Kitchen, LLC, a New York limited
liability company,

Registrant.

PETITION FOR CANCELLATION

Petitioner, Wise Company, Inc., (“Wise Company”), a Utah corporation having a place of business at 3676 W. California Avenue., Salt Lake City, Utah 84104 believes that it is and/or will be damaged by the continued registration of the mark THE SIMPLE KITCHEN (with stylized design elements) in U.S. Trademark Registration No. 3763625, and by and through its counsel, Strong & Hanni, hereby petitions to cancel the same.

As grounds for its Petition for Cancellation, Wise Company alleges as follows:

1. On information and belief, Registrant The Simple Kitchen, LLC, is a limited liability company of New York (“Registrant”).

2. On information and belief, Registrant owns U.S. Trademark Registration No. 3763625 (“Registration No. ‘625’”) for THE SIMPLE KITCHEN (with stylized design elements) in Goods/Service class for “Retail grocery and retail store services featuring food” and “Delicatessens; cafes; restaurants; catering.”

3. Registration No. '625 resulted from being the subject of an application filed on March 1, 2007.

4. On December 23, 2014, Wise Company filed application for registration of the mark SIMPLE KITCHEN, subject of U.S. Trademark Application Serial No. 86489158 ("Application No. '158") in International Class 030 for "[p]ackaged meal kits consisting primarily of pasta or rice," with a Section 1(b) filing basis.

5. On December 23, 2014, Wise Company filed application for registration of the mark SIMPLE KITCHEN MEALS, subject of U.S. Trademark Application Serial no. 86489052 ("Application No. '052") in International Class 30 for "[p]ackaged meal kits consisting primarily of pasta or rice," with a Section 1(b) filing basis.

6. Application No. '158 and '052 was refused registration pursuant to Trademark Act Section 2(d), 15 U.S.C. §1052(d), due to an alleged likelihood of confusion with the Registrant's mark in Registration No. '625.

7. On information and belief, Registrant has concluded doing business using the mark subject of Registration No. '625.

8. On information and belief, and based on information available on the internet, goods with the mark THE SIMPLE KITCHEN are not being marketed or sold.

9. On information and belief, Registrant has abandoned the mark subject of Registration No. '625.

10. On information and belief, Registrant intends to make no further use of THE SIMPLE KITCHEN mark on its goods and products. Without use of the mark, Registration No. '625 cannot be maintained under the law.

11. Wise Company will be injured and damaged by a continued maintenance of Registration No. '625 for Registrant's THE SIMPLE KITCHEN mark.

12. By reason of the foregoing, Registrant is not entitled to the continued protection and registration of the mark shown in Registration No. '625.

PRAYER FOR RELIEF

WHEREFORE, Wise Company respectfully prays that U.S. Trademark Registration No. '625 be cancelled in full and that Wise Company be granted such other and further relief as may be just.

Date: June 5, 2015.

Respectfully submitted,

/Casey W. Jones/
Casey W. Jones, Utah Bar No. 12133
Andrew B. McDaniel, Utah Bar No. 11070
Strong & Hanni
Attorneys for Petitioner
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CERTIFICATE OF MAILING AND SERVICE

I certify that on June 5, 2015, the foregoing PETITION FOR CANCELLATION is being electronically transmitted through the ESTTA system to:

Trademark Trial and Appeal Board
Alexandria, VA 22313

It is further certified that on June 5, 2015, the foregoing PETITION FOR CANCELLATION is being served by mailing a copy thereof by certified first-class mail and by email (to those indicated below) addressed to:

Registrant:

The Simple Kitchen, LLC
525 West 22nd Street, Suite 2F
New York, NEW YORK 10011
UNITED STATES

Counsel for Registrant:

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Kelly & Trevenen, LLC
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Robert L. Sherman
rls@paulhastings.com

By: /Casey W. Jones/

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